

JAN 17 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ALLEN SMITH,

Defendant - Appellant.

No. 03-50069

D.C. No. CR-01-00961-DT-03

MEMORANDUM^{*}

Appeal from the United States District Court
for the Central District of California
Dickran M. Tevrizian, District Judge, Presiding

Submitted January 9, 2006^{**}

Before: HUG, O'SCANNLAIN and SILVERMAN, Circuit Judges.

Allen Smith appeals from his 144-month sentence imposed following his guilty plea to conspiracy and possession with intent to distribute cocaine in

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

violation of 21 U.S.C. §§ 841(a)(1) and 846. We have jurisdiction pursuant to 28 U.S.C. § 1291.

We remand to the sentencing court for further proceedings consistent with *United States v. Ameline*, 409 F.3d 1073, 1084-85 (9th Cir. 2005) (en banc).

REMANDED.